

Notice of Allowability

Application No.

10/685,590

Examiner

John P. Leubecker

Applicant(s)

SHENER ET AL.

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to August 2, 2006.
2. ☒ The allowed claim(s) is/are 1-8, 11-18 and 20-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on August 22, 2006, Robert Devoto requested an extension of time for One MONTH(S) and authorized the Director to charge Deposit Account No. 06-1050 the required fee of \$120 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

IN THE CLAIMS

In claim 34, line 13 (last line), replace the period after "sensor" with --, and—
line 14 , indent and insert "wherein the pressure-sensing channel and the fluid channel are completely segregated to limit fluid communication between the channels."

2. The following is an examiner's statement of reasons for allowance: In the interview conducted on July 21, 2006, it was asked of the Examiner to interpret certain terms/phrases as they were intended and in light of the specification. For two or more elements to "define" a channel or for a channel to be "defined between" two or more elements, at least part of each element forms at least part of the boundary which confines the space forming the channel. This

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definition is consistent with specification and intended meaning of this term/phrase. In addition, as mentioned by Applicant on page 9 of the response filed August 2, 2006, the term “coupled” is being interpreted as not *requiring* a fastened, joined or linked connection. The Examiner takes the position that this interpretation is inherently consistent with how the reasonable person or one of ordinary skill in the mechanical arts would automatically define such term in its broadest sense.

With that said, Applicant has amended claim 1 to include that the sheath and inner portion are “removably coupled” and that the pressure-sensing channel and fluid channel are “completely segregated”. As discussed in the above mentioned interview, these limitations help define over the Glowa et al. and Vukovic references, which were used to reject claim 1. In particular, the inner tubular member (30) of Glowa et al. is disclosed as being “joined” (which is not necessarily a removable connection) and does not “define” both a pressure sensing channel and fluid channel between itself and the sheath (60) because of the existence of coaxial tube (50). With respect to Vukovic, the pressure sensing channel and fluid channel (38,38) are not “completely segregated” (at proximal end 32). Since no other reference of record explicitly teaches or fairly suggests, by itself or in combination with another reference, the combination of elements as recited in claim 1, this claim is allowable.

As to claim 27, the Examiner indicated at the time of the above mentioned interview that he would withdraw his position with respect to the rejection of this claim over Glowa et al. In particular, the inner tubular member (30) which the Examiner equated with the inner portion of Applicant’s claims does not define both an operative channel and optical channel (only one channel 42 is defined between the inner portion and the scope 36) in a way in which “the

operative device being positioned within the operative channel while the optical channel houses the optical device”. Since no other reference of record explicitly teaches or fairly suggests, by itself or in combination with another reference, the combination of method steps as recited in claim 27, this claim is allowable.

As to claim 28, Applicant has amended this claim to overcome the previous rejections of this claim over Glowa et al. and Vukovic. Specifically the claim now calls for the optical channel as being positioned outside the operative channel, which excludes the Examiner’s interpretation of an optical channel in the scope (36) of Glowa et al., which, as shown in Figure 2 is received in the operative channel (42). In addition, with respect to Vukovic, the operative channel is given the capability of “receiving fluid from a fluid source and delivering fluid to the body site”. In Vukovic’s device, the channel that receives an operative device (16) is sealed around such device and offers no capability of receiving fluid while receiving the operative device. Since no other reference of record explicitly teaches or fairly suggests, by itself or in combination with another reference, the combination of elements as recited in claim 28, this claim is allowable.

As to claim 29, the Examiner indicated at the time of the above mentioned interview that he would withdraw his position with respect to the rejection of this claim over Glowa et al. In particular it pointed out that Glowa et al. and Vukovic both fail to explicitly teach that the pressure sensing port is rotated “relative to the sheath”, as mention by Applicant on page 10, fourth paragraph and page 12, second full paragraph of the above mentioned remarks. Since no other reference of record explicitly teaches or fairly suggests, by itself or in combination with another reference, the combination of elements as recited in claim 29, this claim is allowable.

As to claim 30, this claim is allowable essentially for the reasons set forth above with respect to the allowability of claim 1.

As to claim 33, this claim is allowable essentially for the reasons set forth above with respect to the allowability of claim 28.

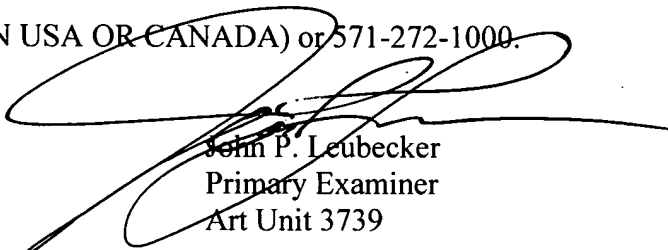
Claim 34 is amended above to include the limitation that the pressure-sensing channel and the fluid channel are completely segregated. This limitation, as mentioned above, overcomes the Vukovic reference, which the Examiner maintained read on claim 34. Since no other reference of record explicitly teaches or fairly suggests, by itself or in combination with another reference, the combination of elements as recited in claim 34, this claim is allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John P. Leubecker
Primary Examiner
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jpl